



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable C. J. Wilde
County Auditor
Nueces County
Corpus Christi, Texas

Dear Sir:

Opinion No. O-5398

Re: Expenses and salaries of
shorthand court reporters
under the provisions of
House Bill No. 750, Regular
Session, 48th Legislature.

Your letter of June 10, 1943, requesting the opinion of this department on the question stated therein, reads in part as follows:

"We notice in checking through the various bills passed by the 48th Legislature, House Bill #750 has reference to the payment of shorthand reporter's salaries and expenses in Judicial Districts covering more than one county in which they operate on a non-continuous term basis. The reporter of the Criminal District Court reports, in Nueces, Kleberg, Cameron, Willacy, and Kenedy Counties, while the reporter of the 28th District Court covers Nueces, Kleberg, and Kenedy Counties. Heretofore, the salary of above mentioned reporters has been paid on basis of the number of weeks served in each county; whereas, the payment of salaries to be made under House Bill #750 is based on the population of each of the above mentioned counties. The following is an analysis of the payments of salaries on the basis of which said reporters have been paid prior to June 1st and the population basis as required by House Bill #750.

| | No. of Court Weeks | Salary | Population | Salary |
|---------|--------------------------|-----------|-------------|----------|
| Nueces | 15..... | \$ 941.88 | 92,661..... | 1,231.61 |
| Kleberg | 4..... | 251.16 | 13,344..... | 177.33 |

Honorable C. J. Wilde, page 2

| | | | | |
|---------|----------------|-------------------|---------------------|-------------------|
| Cameron | 16..... | 1,004.64 | 83,202..... | 1,105.89 |
| Willacy | 5..... | 313.95 | 13,230..... | 175.85 |
| Kenedy | 2..... | 188.37 | 700..... | 9.32 |
| | <u>43.....</u> | <u>\$2,700.00</u> | <u>203,137.....</u> | <u>\$2,700.00</u> |

"In addition to the apparent increase in the amount Nueces County would have to pay, House Bill #750 also states that expenses of the court reporter should be on the population basis also. Article 2326a reads in part as follows:

"All official shorthand reporters and deputy official shorthand reporters of the District Courts of the State of Texas composed of more than one county, when engaged in the discharge of their official duties in any county in this State other than the county of their residence shall, in addition to the compensation now provided by law for their services, be allowed their actual and necessary expenses while actually engaged in the discharge of such duties,---"

"Said House Bill #750 does not seem to allow for the payment of expenses on the basis of which the court reporter's expenses has been paid heretofore; the expense as shown in House Bill #750 apparently divides the expense among all counties - even that in which the reporter resides. Article 2326a as above quoted mentions 'the discharge of their official duties in any county in this State other than the county of their residence shall,---'. The expenses of said reporters has been paid heretofore by counties other than Nueces County. Are we correct in assuming that House Bill #750 should be interpreted in the same manner in as much as there is no mention made of amending Article 2326a?

"We shall be pleased to receive your interpretation of said expenses and also as to the apparent conflict between Article 2326a and House Bill #750."

House Bill No. 750, Acts of the 48th Legislature, Regular Session, 1943, is an Act "providing for the apportionment

Honorable C. J. Wilde, page 3

of the payment of expenses and salaries of the official court reporter in all judicial districts having more than one county; providing that this does not apply where the terms of court operate on a continuous term basis; and declaring an emergency.

"BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

"Sec. 1. In each judicial district in this State in which the terms of court do not operate on a continuous term basis and in which there is more than one county, the salaries and expenses of the official court reporter shall be paid by the respective counties as provided herein. Each of the counties within such district shall pay that portion of the expenses and salaries of the official court reporter which the population of the county, according to the last preceding Federal Census, bears to the total population of the counties comprising the judicial district.

"Sec. 2. The fact that under the present law there is confusion as to the exact apportionment of the official court reporters' salaries and expenses, and the fact that in this respect many cases of undue financial hardship are encountered by many counties create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and said rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted."

It will be noted that this last enactment (House Bill No. 750) by the Legislature does not expressly repeal Article 2326a, Vernon's Annotated Civil Statutes. However, the two statutes under consideration herein are in pari materia and their provisions in such respect cannot be reconciled. In such circumstances the older statute will be held to be repealed by implication to the extent of conflict. The provisions of Article 2326a that are not in conflict with House Bill No. 750 will remain in effect. It is presumed that the Legislature intended to repeal all laws and parts of laws clearly inconsistent with its

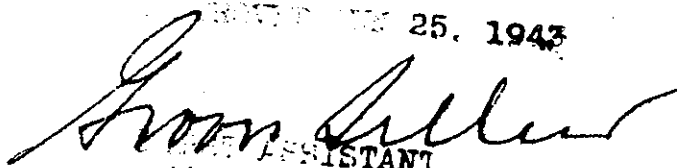
Honorable C. J. Wilde, page 4


later act. (See Texas Jurisprudence, Volume 39, page 145, Section 77, and authorities cited therein.)

In view of House Bill No. 750, supra, it is our opinion that in each judicial district in this State in which the terms of court do not operate on a continuous term basis in which there is more than one county, that the salaries and expenses of the official court reporters shall be paid by the respective counties as follows: Each county within the district shall pay that portion of the expenses and salaries of the official court reporter which the population of the county, according to the last preceding Federal Census, bears to the total population of the counties comprising the judicial district.

Yours very truly

ATTORNEY GENERAL OF TEXAS

RECEIVED MAY 25. 1943

GEORGE A. ALLEN
DEPUTY ATTORNEY GENERAL

By 

Ardell Williams
Assistant

AW:db

APPROVED
OPINION
COMMITTEE